

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

)
UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) **CRIMINAL NO. 02-00218-CG**
)
)
CLARENCE RAYMOND LUNDY,)
)
Defendant.)

ORDER

This matter is before the court on defendant's motion to set aside revocation of supervised release or alternatively, motion to reconsider imposition of custody sentence. (Doc. 50). The position espoused in this motion is basically that, if the defendant had known that the sentence imposed would have been beyond the guideline range, he would not have waived his right to a hearing.

There is nothing alleged in the motion which convinces the court that there are any grounds for the relief requested. The defendant clearly and unequivocally waived his right to a hearing and asserted that the Government could prove the allegations in the petition for revocation. When the defendant appeared to equivocate on whether the Government could prove the matters alleged, the court indicated it would not accept the waiver but would require the United States to put on its evidence. Defendant then plainly told the court that he was not contesting that the Government could put on a prima facie case, but indicated he wanted the opportunity to explain some things about himself before sentencing. The court then accepted the waiver, and allowed the defendant to explain anything he

wished to explain.

In sentencing the defendant, the court stated that it had considered the Chapter 7 provisions of the Sentencing Guidelines and found them to be inappropriate in defendant's case, because defendant is a danger to society. Nothing in defendant's motion convinces the court otherwise. The court does not believe that the law permits reconsideration of a sentence once it is pronounced under the circumstances presented here; but even if it did, the sentence would still be the same.

The motion is **DENIED**.

DONE and ORDERED this 22nd day of June, 2005.

/s/ Callie V. S. Granade
CHIEF UNITED STATES DISTRICT JUDGE